

REMARKS

Claims 29-33 and 43-49 are cancelled herein. Claims 1-28 and 34-42 were previously cancelled. Claim 50 is amended herein. Claims 51-54 are new. Support for the amendment to claim 50 and new claims 51-54 can be found throughout the specification, for example at paragraphs [0047], [0048], and [0131] through [0143] and in the as-filed claims. No new matter is introduced. After entry of the new claims, claims 50-54 are under examination. Applicants respectfully request reconsideration of claims 50-54 in view of the amendments and comments herein.

Applicants acknowledge with thanks, the Examiner's withdrawal of the rejection of claims 29-33 and 43-49 under 35 U.S.C. §103(a).

Rejection Under §112

1. Enablement (First Paragraph)

The Examiner has rejected claims 29-33 and 43-49 under 35 U.S.C. §112, first paragraph for allegedly failing to comply with the enablement requirement. Without acquiescing to the Examiner's position, Applicants have cancelled claims 29-33 and 43-49, rendering the rejection moot. Applicants reserve the right to refile these claims for prosecution in a subsequent application.

2. Written Description (First Paragraph)

The Examiner has rejected claims 29-33 and 43-50 under 35 U.S.C. §112, first paragraph for allegedly failing to comply with the written description requirement. Without acquiescing to the Examiner's position, Applicants have cancelled claims 29-33 and 43-49, rendering the rejection moot. Applicants reserve the right to refile these claims for prosecution in a subsequent application.

With regards to claim 50, the Examiner recognizes that the sequence of BNP (1-108) is disclosed in the specification, but asserts that the specification “does not describe the sequence in the context of performing an assay to detect the sequence.” (Office Action, pg. 8). Without acquiescing to the Examiner’s position, Applicants have herein amended claim 50 by removing reference to BNP (1-108). As the Examiner recognizes, the only rejection of claim 50 is on the basis of alleged lack of written description of BNP (1-108). (Office Action, pg. 9). Therefore, Applicants respectfully assert that claim 50, and claims 51-54 which depend therefrom, are fully described and enabled by the present specification. As such, claims 50-54 are in condition for allowance.

For at least the foregoing reasons, Applicants respectfully request that the rejection of claim 50 (and new claims 51-54 depending therefrom) as allegedly failing to meet the written description requirement of 35 U.S.C. §112, first paragraph, be withdrawn.

3. Indefiniteness (Second Paragraph)

The Examiner has rejected claims 29-33 and 43-49 under 35 U.S.C. §112, second paragraph for allegedly failing to comply with the indefiniteness requirement. Without acquiescing to the Examiner’s position, Applicants have cancelled claims 29-33 and 43-49, rendering the rejection moot. Applicants reserve the right to refile these claims for prosecution in a subsequent application.

CONCLUSION

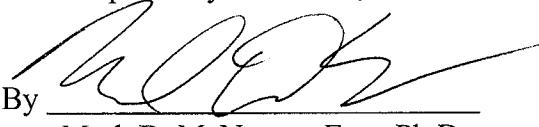
Applicant respectfully submits that all rejections and objections have been obviated and that the pending claims are in condition for allowance. An early notice to that effect is earnestly solicited. Should any matters remain outstanding, the Examiner is encouraged to contact the undersigned at the telephone number listed below so that they may be resolved without the need for an additional action.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16 1.17, or credit any overpayment, to

Deposit Account No. 23-2415 (36671-744.502). If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extensions under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 23-2415.

Respectfully submitted,

By


Mark D. McNemar, Esq., Ph.D.
Reg. No. 64,904

Date: December 2, 2010

WILSON SONSINI GOODRICH & ROSATI
650 Page Mill Road
Palo Alto, CA 94304
Telephone No.: (650) 493-9300